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09/715,872	11/15/2000	Michael Bleser	29488/36478	7661

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EXAMINER

PORTER, RACHEL L

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/715,872	<b>Applicant(s)</b> BLESER ET AL.	
	<b>Examiner</b> Rachel L. Porter	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the amendment filed 7/10/06. Claims 1-18 are pending. Claims 17-18 are new.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9, 11-12, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szabo (USPN 5,954,640) in view of "Name Change Reflects CVS' Commitment to E-commerce" (Anonymous)

[Claim 1] Szabo teaches a system for accessing pharmacy data and ordering medical treatments via a network comprising:

- a network server connected to the network that is accessible by one or more customers via the network; (Figure 1; Web server (10))
- an application server connected to the network server; (Figure 1, Application server (15))

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- a database connected to the application server, the database containing information concerning drugs and personal information concerning one or more of the customers; and (Figure 1; database 11-14)
- an intranet server being connected to the application server; (col. 9, lines 46-54—data sent to pharmacists/medical professionals; col. 10, lines 51-62; col. 14, lines 8-16—users may connect pharmaceutical information of different vendors)
- wherein the application server is configured to :
  - allow a customer to access the information concerning drugs and personal information concerning that customer, and
  - provide each of the one or more customers to transmit an order to at least one vendor/one of the one or more shipping facilities (Figure 2; col. 8, lines 5-19; col. 12, lines 51-62; col. 13, lines 24-42—Application server performs optimization, allows user to evaluate a proposed purchase on a health optimization, and helps link patient to purchasing system for order placement.)

Szabo teaches the system for accessing pharmacy system as explained above. However, Szabo does not expressly disclose that the server interconnects to at least a plurality of member pharmacies and one or more shipping facilities. “Name change” discloses an intranet, (i.e. users logon—par. 1) web-based prescription system that interconnects a plurality of member pharmacies and one or more shipping facilities (par. 4-5). At the time of the Applicant’s invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of “Name

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change” to include have the intranet server interconnect a plurality of member pharmacies with one or more shipping facility. As suggested by “Name change,” one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

Claim 1 further recites that the application server is configured to provide customers with an option to transmit a prescription order to at least one of a plurality of member pharmacies or one or more shipping facilities, wherein at least one drug associated with the prescription is shipped from one of the one or more shipping facilities when the customer chooses the option. Szabo discloses an Internet based system for ordering medical treatments as explained above, but does not expressly disclose providing customers with the option to transmit a prescription order to at least one of a plurality of member pharmacies or one or more shipping facilities, wherein at least one drug associated with the prescription is shipped from one of the one or more shipping facilities when the customer chooses the option.

“Name change” discloses a prescription ordering system wherein the customer is given the option of transmitting a prescription order and having the prescription order shipped from a shipping facility (i.e. to the home of the customer) or having it sent to a selected member pharmacy (i.e. prepared for pick-up at a retail pharmacy). (par. 4-5) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of “Name change”

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provide users with the option of transmitting prescription orders to a shipping facility or one of the member pharmacies. As suggested by "Name change," one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

[Claim 2] Szabo teaches the system as defined in claim 1, wherein the network server displays one or more interactive webpages to the one or more customers that is viewable by the one or more customers with a respective network browser. (col. 6, lines 26-40; col. 11, lines 31-37; col. 12, lines 28-44).

[Claim 3] Szabo teaches a system wherein the personal information concerning the one or more customers includes a prescription history of each respective one of the one or more customers. (col. 7, lines 62-col. 8, line 4—e.g. drugs being taken)

[Claim 4] Szabo teaches the system as defined in claim 3, wherein the network server is configured to format display of the prescription history of each respective one of the one or more customers according to a plurality of selectable display formats that are selected by the respective one of the one or more customers. (Figure 3; col. 6, lines 26-35; col. 12, lines 35-61—customizable screen interface)

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[Claim 5] Szabo teaches system wherein the network server is configured to allow each respective one of the one or more customers to print each particular selectable display format of the history that is selected by the respective one or the one or more customers. (col. 6, lines 43-47; col. 12, lines 35-61—tailored screen output or printout specific for that user, which specifically includes medical history)

[Claim 6] Szabo teaches a system wherein the network is the Internet. (col. 13, lines 37-42)

[Claim 7] Szabo teaches a system wherein access to personal information concerning each respective customer of the one or more customers includes at least one of access and viewing of the personal information, editing of the personal information and adding additional information to the personal information previously stored. (col. 13, lines 43-67; col. 14, lines 8-16)

[Claim 8] Szabo discloses an Internet based system for ordering drugs/nutritional supplements. Szabo teaches a method wherein the particular order includes one of a new order or a refill of an existing order (col. 15, lines 5-14; col. 16, lines 27-39). Szabo does not expressly disclose that the orders placed are prescriptions.

“Name change” discloses a system for placing prescription and nonprescription drug orders, wherein the customer is given the option of transmitting a prescription order and having the prescription order shipped from a shipping facility (i.e. to the home

of the customer) or having it sent to a member pharmacy (i.e. prepared for pick-up at a retail pharmacy).(par. 4-5) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of "Name change" provide users with the option of transmitting new or existing prescription and nonprescription orders to a shipping facility or one of the member pharmacies. As suggested by "Name change," one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

[Claim 9] Szabo teaches method enabling one or more customers to order medical treatments supplements and access pharmacy data via a network comprising the steps of:

- accessing a network server hosting a network website via the network; (Figures 1-2)
- registering a customer with the network website; (Figure 2; col. 13, lines 43-67)
- displaying to the customer on the website at least one of a prescription order selection or a pharmacy data access selection; (col. 14, lines 11-16; col. 15, lines 5-14)
- displaying one or more order displays to the customer on the website when the customer selects the order selection; and (col. 10, lines 51-62; col. 16, lines 8-14)
- displaying one or more pharmacy data access displays to the customer when the customer selects the pharmacy data access selection, wherein the customer is



allowed to access one of a personal medical history and specific drug (i.e. supplement) information from a database. (col. 14, lines 11-16; col. 16, lines 16-26)

Szabo teaches the system for accessing pharmacy system as explained above. However, Szabo does not express disclose that the network interconnects to at least a plurality of member pharmacies and one or more distribution facilities. "Name change" discloses an intranet, (i.e. users logon—par. 1) web-based prescription drug system that interconnects a plurality of member pharmacies and one or more distribution facilities (par. 4-5). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of "Name change" to include have the intranet connect a plurality of member pharmacies with one or more shipping facility. As suggested by "Name change," one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

[Claim 11] Szabo teaches a method, wherein the personal prescription history includes one or more of current prescriptions and past prescriptions (col. 7, lines 62-col. 8, line 4—e.g. drugs being taken; col. 13, lines 44-67; col. 16, lines 15-26—e.g. medical conditions and treatments)

[Claim 12] Szabo discloses an Internet based system for ordering drugs/nutritional supplements. Szabo teaches a method wherein the particular order includes one of a

new order or a refill of an existing order. (col. 15, lines 5-14; col. 16, lines 27-39).

Szabo does not expressly disclose that the orders placed are prescriptions.

“Name change” discloses a system for placing prescription and nonprescription drug orders, wherein the customer is given the option of transmitting a prescription order and having the prescription order shipped from a shipping facility (i.e. to the home of the customer) or having it sent to a member pharmacy (i.e. prepared for pick-up at a retail pharmacy).(par. 4-5) At the time of the Applicant’s invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of “Name change” provide users with the option of transmitting new or existing prescription and nonprescription orders to a shipping facility or one of the member pharmacies. As suggested by “Name change,” one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

[Claim 15] Szabo and “Name Change” disclose the system of claim 9, as explained in the rejection of claim 9. Furthermore, Szabo teaches a method further comprising the steps of:

- enabling the customer to select one or more display formats for the personal history; and (Figure 3; col. 6, lines 26-35; col. 12, lines 35-61- customizable screen interface)

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- enabling a customer to print a specific format selected by the customer from the one or more display formats. (col. 6, lines 43-47; col. 12, lines 35-61-- tailored screen output or printout specific for that user, which specifically includes medical history)

[Claim 16] Szabo and "Name Change" teach the method of claim 9 as explained in the rejection of claim 9. Furthermore, Szabo discloses a method wherein the particular order will one of b) be shipped to a designated postal address. (col. 6, lines 47-56; col. 10, lines 51-62; col. 15, lines 5-14—System allows the prescribed treatment to be purchased a retail facility (i.e. pharmacy store location or through the mail. )

Szabo does not disclose providing customers with an option to: A) manually pick the prescription up a selected pharmacy location, or B) ship the prescription designated postal address. "Name change" discloses a prescription ordering system wherein the customer is given the option of having the prescription shipped to the home of the customer (B) or picking it up at a member pharmacy (A). (par. 4-5) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Szabo with the teaching of "Name change" provide users with the option of shipping prescription orders to a designated address or picking them up at one of the member pharmacies. As suggested by "Name change," one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

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[claim 17] The limitations of claim 17 are substantially similar to claim 1. As such, the limitations of claim 17 are addressed by the rejection of claim 1, and incorporated herein.

[claim 18] The limitations of claim 18 are substantially similar to those recited in claims 9 and 16. As such, the limitations are addressed by the rejections of claims 9 and 16, and incorporated herein.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Szabo and "Name Change" as applied to claim 9, and in further view of Mayaud (USPN 5,845,255 A).

[Claim 10] Szabo and Name change teach a prescription ordering method including the step of registering customers as explained in the rejection of claim 9. Szabo further discloses a method wherein the step of registering the customer further comprises the steps of:

- prompting the customer to enter a username and personal profile information; (col. 13, lines 43-67)
- transmitting and storing an entered username and personal profile information to/in a network server; (Figure 1—personal storage database ; col. 13, lines 30-37)
- enabling the customer to access at least portions of the website by subsequent entry of the entered username (Figure 3; col. 16, lines 15-39)

Szabo discloses the method above, and "Name Change" discloses that website visitors can browse the site and set up a permanent account. However, Szabo and

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"Name Change" do not expressly disclose the use of passwords as part of the user access system. Mayaud discloses a prescription creation/file access system wherein the individuals submitting prescriptions and accessing the patient profiles use passwords (col. 10, lines 12-51). At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Szabo and "Name Change" in combination with the teaching of Mayaud to include the use of passwords to access profiles and/or submit prescriptions. As suggested by Mayaud, one would have been motivated to include this feature to further protect sensitive patient information, (col. 10, lines 24-27) and to provide an audit trail of individuals accessing the system (col. 18, lines 62-65)

5. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szabo and "Name Change" as applied to claim 9, and in further view of Godin et al (US 2001/0009005)

[Claim 13] Szabo and "Name Change" teach the method as defined in claim 9 as explained in the rejection of claim 9. Szabo further discloses a method requiring the use of personal profile information and other identifying information to access the system, but Szabo and Name Change do not expressly disclose assigning users PIN numbers to access the system.

Godin discloses a method for providing user access to a website further comprising :

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- assigning the customer a personal identification number subsequent to the step of registering the user; (par. 27)
- communicating the personal identification number to the customer via a secured communication; and (par. 23,27)
- prompting the customer to enter the personal identification number to allow the customer to access secured portions of the website. (Figure 2, 11, par. 34)

At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method Szabo and "Name Change" in combination with Godin to provide assigned PIN's to registered system users. As suggested by Godin, one would have been motivated to include these features to further protect sensitive information and to further bolster system security (par. 23, lines 1-7).

[Claim 14] Szabo teaches a method as defined in claim 9, wherein the step of registering the customer further comprises:

- manually entering a username and a customer personal profile concerning the customer into a connection to an intranet server; (col. 6, lines 12-25)
- associating the customer in a network server (col. 6, lines 26-35)

Szabo discloses the method as disclosed above, but does not disclose providing a user name, password, or customer into a connection to an intranet server located in one of any one of a plurality of member pharmacies and one or more centralized company locations facilities. "Name change" discloses an intranet, (i.e. users login—par. 1) web-based prescription drug system that interconnects a plurality of member pharmacies

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and one or more central company facilities. (par. 4-5). "Name change further discloses associating the customer to network server. (par. 1 and 3) Consumers set up permanent accounts, log on, browse the website, and order prescription and nonprescription products. At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Szabo with the teaching of "Name change" to include have the intranet connect a plurality of member pharmacies with one or more shipping facility. As suggested by "Name change," one would have been motivated to include this feature to allow customers to control their shopping experience by determining when and how they access the store, and to place orders for prescriptions in a way that is convenient, confidential and price competitive. (par. 6-7)

Szabo and "Name Change" disclose the method as disclosed above. "Name Change" further discloses that the user must set up a permanent account and may have orders shipped to his/her address. However, Szabo and "Name Change" in combination do not expressly disclose manually entering customer contact information; and communicating at least a username and password, which enable the customer to access the network website, to the user via a secured communication using the customer contact information.

Godin discloses a system and method further comprising manually entering customer contact information; (Figures 2, 11; par. 27-28) and communicating at least a username and password, which enable the customer to access the network website, to the user via a secured communication using the customer contact information. (Figures

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2, 11; par.23, 34) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Szabo and "Name Change" in combination with the teaching of Godin. As suggested by Godin, one would have been motivated to include these features to further protect sensitive information and to further bolster system security (par. 23, lines 1-7).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Walgreens On-line Prefills (Website Printout Packet—13 pages) discloses a website wherein registered users may order prescription drugs and pick them up at member pharmacies.
- "CVS, Merck-Medco in E-commerce Alliance" (Anonymous) discloses a several online commercial pharmacies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel L. Porter whose telephone number is (571) 272-6775. The examiner can normally be reached on M-F, 9:30-6:00.



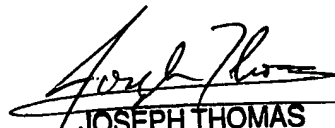
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER